1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 11 UNITED STATES OF AMERICA, 12 Plaintiff(s), C07-4562 BZ No. 13 v. ORDER SCHEDULING COURT TRIAL AND 14 EMMANUEL T. SEGMEN, PRETRIAL MATTERS 15 Defendant(s). 16 Following a hearing held on plaintiff's motion for 17 18 summary judgment, at which both parties were represented by 19 counsel, and at which plaintiff's motion was denied, IT IS 2.0 **HEREBY ORDERED** as follows: 21 1. DATES 22 Trial Date: Thursday, August 13, 2009, 1 day Pretrial Conference: Tuesday, 8/4/2009, 4:00 p.m. 23 24 PRETRIAL CONFERENCE Not less than thirty days prior to the date of the 25 26 pretrial conference, the parties shall meet and take all 27 steps necessary to fulfill the requirements of this Order. 28 Not less than twenty-one days prior to the pretrial

conference, the parties shall: (1) serve and file a joint pretrial statement, containing the information listed in Attachment 1, and a proposed pretrial order; (2) serve and file trial briefs, Daubert motions, proposed findings of fact and conclusions of law, and statements designating excerpts from discovery that will be offered at trial (specifying the witness and page and line references); (3) exchange exhibits, agree on and number a joint set of exhibits and number separately those exhibits to which the parties cannot agree; (4) deliver all marked trial exhibits directly to the courtroom clerk, Ms. Yiu; (5) deliver one extra set of all marked exhibits directly to Chambers; and (6) submit all exhibits in three-ring binders. Each exhibit shall be marked with an exhibit label as contained in Attachment 2. exhibits shall also be separated with correctly marked side tabs so that they are easy to find.

No party shall be permitted to call any witness or offer any exhibit in its case in chief that is not disclosed at pretrial, without leave of Court and for good cause.

Lead trial counsel for each party shall meet and confer in an effort to resolve all disputes regarding anticipated testimony, witnesses and exhibits. Not less than eleven days prior to the pretrial conference, the parties shall serve and file any objections to witnesses or exhibits or to the qualifications of an expert witness, and any oppositions to <a href="Daubert">Daubert</a> motions. There shall be no replies. A copy of all

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pretrial submissions, except for exhibits, shall be e-mailed in WordPerfect or Word format to the following address: bzpo@cand.uscourts.gov At the time of filing the original with the Clerk's Office, two copies of all documents (but only one copy of the exhibits) shall be delivered directly to Chambers (Room 15б 6688). Chambers' copies of all pretrial documents shall be three-hole punched at the side, suitable for insertion into standard, three-ring binders. Dated: June 24, 2009 United States Magistrate Judge G:\BZALL\-BZCASES\USA V. SEGMAN\PRETRIAL SCHEDULING ORDER.wpd 

1 ATTACHMENT 1 2 The parties shall file a joint pretrial conference statement containing the following information: 3 (1) The Action. 4 Substance of the Action. A brief description of the 5 substance of claims and defenses which remain to be 6 decided. 7 Relief Prayed. A detailed (B) statement of each party's 8 position on the relief claimed, particularly 9 itemizing all elements of damages claimed as well as 10 witnesses, documents or other evidentiary material to be 11 presented concerning the amount of those damages. 12 13 (2) The Factual Basis of the Action. 14 Undisputed Facts. A plain and concise statement of all 15 relevant facts not reasonably disputable, as well as which facts parties will stipulate 16 for incorporation into the trial record without the 17 necessity of supporting 18 testimony or exhibits. 19 Disputed Factual Issues. A (B) plain and concise statement of 2.0 all disputed factual issues which remain to be decided. 21 Agreed Statement. A statement assessing whether all or part 22 of the action may be presented upon an agreed statement of 23 facts. 2.4 Stipulations. A statement of (D) 25 stipulations requested or proposed for pretrial or trial 26 purposes. 27

## (3) Trial Preparation.

A brief description of the efforts the parties have made to resolve disputes over anticipated testimony, exhibits and witnesses.

- (A) Witnesses to be Called. In lieu of FRCP 26(a)(3)(A), a list of all witnesses likely to be called at trial, other than solely for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony to be given.
- (B) Estimate of Trial Time. An estimate of the number of court days needed for the presentation of each party's case, indicating possible reductions in time through proposed stipulations, agreed statements of facts, or expedited means of presenting testimony and exhibits.
- (C) Use of Discovery Responses. In lieu of FRCP 26(a)(3)(B), cite possible presentation at trial of evidence, other than solely for impeachment or rebuttal, through use of excerpts from depositions, from interrogatory answers, or from responses to requests for admission. Counsel shall state any objections to use of these materials and that counsel has conferred respecting such objections.
- (D) Further Discovery or Motions.
  A statement of all remaining motions, including <u>Daubert</u> motions.

### (4) Trial Alternatives and Options.

(A) Settlement Discussion. A statement summarizing the status of settlement

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negotiations and indicating whether further negotiations are likely to be productive.

- (B) Amendments, Dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims or defenses.
- (C) Bifurcation, Separate Trial of Issues. A statement of whether bifurcation or a separate trial of specific issues is feasible and desired.

### (5) Miscellaneous.

Any other subjects relevant to the trial of the action, or material to its just, speedy and inexpensive determination.

#### **ATTACHMENT 2** 1 **USDC USDC** 2 Case No. CV07-04562 BZ **JOINT** Exhibit No.\_\_\_\_\_ Case No. CV07-04562 BZ **JOINT** Exhibit No. 3 Date Entered Date Entered 4 Signature \_\_\_\_\_ Signature \_\_\_\_ 5 6 USDC USDC Case No. CV07-04562 BZ JOINT Exhibit No. Case No. CV07-04562 BZ JOINT Exhibit No. 7 8 Date Entered \_\_\_\_\_ Date Entered \_\_\_\_\_ 9 Signature Signature 10 USDC Case No. CV07-04562 BZ PLNTF Exhibit No. \_\_\_\_\_ USDC Case No. CV07-04562 BZ PLNTF Exhibit No. \_\_\_\_\_ 11 12 Date Entered \_\_\_\_\_ Date Entered \_\_\_\_\_ 13 Signature \_\_\_\_\_ Signature \_\_\_\_\_ 14 15 **USDC USDC** Case No. CV07-04562 BZ Case No. CV07-04562 BZ 16 PLNTF Exhibit No. \_\_\_\_\_ PLNTF Exhibit No. 17 Date Entered \_\_\_\_\_ Date Entered \_\_\_\_\_ 18 Signature \_\_\_\_\_ Signature \_\_\_\_\_ 19 USDC 2.0 Case No. CV07-04562 BZ **DEFT** Exhibit No. Case No. CV07-04562 BZ **DEFT** Exhibit No. 21 Date Entered \_\_\_\_\_ Date Entered \_\_\_\_\_ 22 Signature \_\_\_\_\_ Signature 23 24 USDC Case No. CV07-04562 BZ DEFT Exhibit No. \_\_\_\_\_ **USDC** Case No. CV07-04562 BZ DEFT Exhibit No. \_\_\_\_\_ 25 26 Date Entered \_\_\_\_\_ Date Entered \_\_\_\_\_ 27 Signature \_\_\_\_ Signature \_\_\_\_\_